

## **DETAILED ACTION**

### ***Claim Objections***

Claims 44-55 are objected to because of the following informalities: they are all dependent on cancelled claims. Appropriate correction is required. Please note that the examiner is therefore interpreting all the claims to be dependent on claim 43.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 49 recites the limitation "the fibers" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 43-46, 48-51, and 53-55 are rejected under 35 U.S.C. 103(a) as being anticipated by Trogolo et al. (U.S. Pat. No. 6,296,863) in view of Sioshansi et al. (US Pat. No. 5,474,797). Trogolo et al. discloses the following of the claimed invention: an antibacterial vascular prosthesis prepared by a process comprising the steps of: providing a porous basic structure (10, 18; col. 3, lines 2-4, 15-21); depositing silver onto the surface of the porous basic structure (20; col. 3, line 59 through col. 4, line 30); and impregnating the silver coated porous basic structure with an absorbable material (col. 8, lines 31-40). Trogolo et al. does not teach depositing the

silver on to the porous structure by means of an ion beam assisted deposition technique.

Sioshansi et al. teaches a method of making an anti-bacterial prosthesis where silver is deposited by means of an ion beam assisted deposition technique in col. 3, lines 53 through col. 4, line 12 for the purpose of enhancing the device's infection-fighting ability and biocompatibility. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use an ion beam assisted technique to apply the silver to the porous structure in order to enhance the device's infection-fighting ability and biocompatibility.

Trogolo et al. teaches claim 44 in col. 3, lines 2-4, 15-21.

Trogolo et al. teaches claim 45 in col. 1, lines 30-35.

Trogolo et al. teaches claim 46 in col. 3, lines 2-4.

Trogolo et al. teaches claim 48, 54, and 55 as shown in Fig. 4.

Trogolo et al. teaches claim 49 as shown in Fig. 4. Please note that the examiner is interpreting "the fibers" to be those areas surrounding the pores on the porous basic structure.

Trogolo et al. teaches claim 50 in col. 8, lines 31-33.

Trogolo et al. teaches claim 51 in col. 3, lines 59-65.

In claim 53, regarding the ranges of thickness, it would have been obvious to one having ordinary skill in the art at the time the invention was made to create a silver layer with the claimed properties, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trogolo et al. in view of Sioshansi et al., further in view of Ragheb et al. (U. S. Pat. No. 5,873,904). Trogolo et

al., as modified by Sioshansi et al., does not teach the porous basic structure being made of polytetrafluoroethylene. Ragheb et al. teaches a silver-coated medical device whose base material is polytetrafluoroethylene in col. 9, lines 1-17 for the purpose of utilizing the material's biocompatibility. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the device of Trogolo et al. and Shioshansi et al. with a polytetrafluoroethylene base material in order to utilize the materials' biocompatibility.

Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trogolo et al. in view of Sioshansi et al., further in view of Shikani et al. (U. S. Pat. No. 5,762,638). Trogolo et al., as modified by Sioshansi et al., does not disclose using active substances in the absorbable coating. Shikani et al. teaches in col. 5, lines 47-62 that it is known in the art to place drugs in the outer coating of a device such that it can be programmed to be released after a certain period of time based on the choice of the outer coating. This will help prevent inflammation and granulation tissue at the sites where these prosthetics are implanted. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use such an outer coating on Trogolo et al.'s prosthesis to prevent inflammation and granulation tissue at the site of implantation.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 43-55 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANN SCHILLINGER whose telephone number is (571)272-6652. The examiner can normally be reached on Mon. thru Fri. 9 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Isabella can be reached on (571) 272-4749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. S./  
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